IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 309 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME TAX

Versus

BHARAT VIJAY CONSTRUCTION CO

Appearance:

1. INCOME TAX REFERENCE No. 309 of 1987
MR AKIL QURESHI for MR RP BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 31/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following question of law has been referred to this Court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A' under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

"Whether on the facts and in the circumstances of the case the Tribunal was right in law in coming to the conclusion that the assessee is entitled to investment allowance of Rs. 51,891/- under sec. 32A of the Act?"

2. Learned advocate Shri Akil Qureshi has appeared for the applicant whereas nobody has appeared for respondent assessee, though served.

3. The question, which has been referred to this court, has already been answered by the Hon'ble Supreme Court in the case of CIT v. N.C. Budharaja & Co. & Anr., 204 ITR 412.

4. Looking to the law laid down by the Hon'ble Supreme Court in the said case, we answer the question in the negative i.e. against the assessee and in favour of the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)